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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,014	08/26/2003	David Dennis Latham	16210-US	3470
30689	7590	07/16/2007		
DEERE & COMPANY ONE JOHN DEERE PLACE MOLINE, IL 61265			EXAMINER UNDERWOOD, DONALD W	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 07/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/648,014

Applicant(s)

LATHAM ET AL.

Examiner

Donald Underwood

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04/20/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/20/07 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

Receipt of the proposed drawing changes, i. e., new figures 8 and 9 is acknowledged. These new figures have not been approved since the structure in these figures is identical to the structure in figures 3 and 5. The change to figure 5 should be resubmitted. Note annotated sheets should be filed together with the replacement sheets.

The drawing is objected to under 37CFR1.84(p)(5) as failing to contain all the numerals in the specification. For example, 82a and 100 do not appear in the drawing. The drawing and specification should be reviewed and amended to avoid this problem. The introduction of new matter should be guarded against.

The amendments to paragraphs 0010 and 0012 comprise new matter and/or are repetition and should be deleted. The original disclosure does not support alternately relocating the holes (paragraph 0010) and the alternate linkage (paragraph 0012) is identical to the original linkage in figure 5.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6 and 8-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar, et al. or Abe, et al. as applied and for the reasons set forth in paragraph 5 of the Office action mailed 07/15/05.

Regarding the amendment to claims 1, 8, 9, 14, 16 and 17, this amendment does not further limit the claim since the alternate linkage pin support is not claimed. Moreover, alternate could be another like support. The holes added to the references in the modification are capable of receiving fasteners to hole any pin support with a compatible hole arrangement. Again only one pin support is claimed.

Regarding claims 10, 11 and 12, see Abe, figure 3.

Claims 7, 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe, et al. in view of Mandon as applied and for the reasons set forth in paragraph 6 of the Office action mailed 07/15/05.

Claims 1-6 and 8-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar, et al. or Abe, et al. in view of Gilstrap or newly cited Schwalenberg, et al.

Note elements 62, 64 in Apgar are synonymous with applicants' mast, 86 is a load bearing support and 92 is a pin support. While 86 and 92 are welded together, it would have been obvious to construct these pieces to be attached by fasteners in view

of the teaching in Gilstrap or Schwalenberg that fastening means are interchangeable. See Gilstrap, column 2, lines 59-63 and Schwalenberg, column 5, lines 61-65.

Note elements 23, 42 in Abe are synonymous with applicants' mast, 20 is a load bearing support and 41 is a pin support. While 20 and 41 appear to be welded together it would have been obvious to construct these pieces to be attached by fasteners in view of the teaching in Gilstrap or Schwalenberg.

The remarks regarding the amendments to claims 1, 8, 9, 14, 16 and 17 set forth in the rejection above of claims 1-6 and 8-18 are herein repeated.

Regarding claim 6, the pin support could be made of a casting instead of welded parts. The method of manufacture of a part can not serve as a basis for patentability in an apparatus claim.

Regarding claims 8, 14 and 17, note the pin support in each primary reference comprises two pin holes and an access hole. The pin would be inserted through the first pin hole, through the access hole and into the second pin hole. These last two steps, i. e., through the access hole and into the second pin hole would meet the claim limitations. Moreover, this assembly step has no bearing in apparatus claims 8, 14 and 17.

Regarding claims 10, 11 and 12, see Abe, figure 3.

Regarding claim 15, Apgar's pin support contains a space like that shown by 108a in applicants' figure 3.

Claims 7, 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe, et al. in view of Gilstrap or Schwalenberg as applied to claims 1

and 16 above, and further in view of Mandon as applied in the final rejection mailed 03/20/06.

Claims 15 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar, et al. or Abe, et al. in view of WO/47833.

It would have been obvious to extend hydraulic hoses in the access hole in either primary reference in view of the teaching in WO/47833 (figure 2).

Claims 15 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar, et al. or Abe, et al. in view of Gilstrap or Schwalenberg as applied to claims 11 and 20 above, and further in view of WO/47833 as applied in the preceding paragraph.

Applicants' arguments have been carefully considered but are not deemed persuasive. Applicants are only claiming bolting two structures together. Their objective is to provide a base structure and a variety of other structures each of which could be in turn bolted to the base structure. The claims do not claim this arrangement. As noted above the claims only claim bolting two structures together. As for *Nerwin v Erlichman*, the examiner is of the opinion that this case is sufficient holding to render obvious making a single piece structure from a plurality of pieces bolted together if it functions in the same way. Applicants' remarks about his intended purpose of providing a base and a variety of parts each of which could be bolted to the base are not directed to the claimed subject matter. As for Gilstrap the examiner's position set forth in the Office action mailed 10/26/06 is herein repeated.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Donald Underwood* 07/08/07  
Donald Underwood  
Primary Examiner  
Art Unit 3652

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